

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of Jeffrey L. Pursley, Director of the Nebraska Telecommunications Infrastructure and Public Safety Department of the Nebraska Public Service Commission,)	Application No. 911-030.05
)	
)	
)	
)	
)	COMPLAINT
Complainant,)	
v.)	
)	
Cricket Communications, Inc., San Diego, California)	
)	
Respondent.)	Filed: April 1, 2008

COMES NOW, Mr. Jeffrey L. Pursley, Director of the Nebraska Telecommunications Infrastructure and Public Safety Department (NTIPS) (hereinafter "Complainant") of the Nebraska Public Service Commission (Commission) for Complaint against Cricket Communications, Inc., San Diego, California (hereinafter "Respondent") and alleges the following:

1. Complainant is the Director of the Nebraska Telecommunications Infrastructure and Public Safety Department (NTIPS) of the Nebraska Public Service Commission (Commission).
2. Respondent is a wireless carrier as defined by Neb. Rev. Stat. § 86-456.
3. Jurisdiction is proper pursuant to the Enhanced Wireless 911 Services Act, Neb. Rev. Stat. §§ 86-442 to 86-470.
4. Pursuant to Neb. Rev. Stat. § 86-465(3), "The commission shall have any powers necessary to carry out the intent and purposes of the act."
5. Pursuant to Neb. Rev. Stat. § 86-459(2), "As the commission may require, each wireless carrier shall report to the commission on a quarterly basis for each county in a manner prescribed by the commission the following information: (a) The number of telephone numbers or functional equivalents served; (b) the telephone numbers or functional equivalents from which it has collected surcharge

revenue; (c) the number of wireless towers by county; and (d) the current implementation status of enhanced wireless 911 service in each county served by that wireless carrier.

6. Pursuant to Neb. Rev. Stat. § 86-459(5), "Each wireless carrier shall comply with this section regardless of whether the wireless carrier receives reimbursement from the fund. Wireless carriers failing to comply with this section may be administratively fined by the commission pursuant to section 75-156."

7. Pursuant to Docket No. 911-010, (March 30, 2004), such reports are due to the Commission by the 15th of the month immediately following the end of each calendar quarter; April 15, July 15, October 15, and January 15.

8. Per Section 75-156(3), "In addition to other penalties and relief provided by law, the Public Service Commission may, upon a finding that the violation is proven by clear and convincing evidence, assess a civil penalty of up to ten thousand dollars per day against any wireless carrier for each violation of the Enhanced Wireless 911 Services Act or any rule, regulation, or order of the commission issued under authority delegated to the commission pursuant to the act."

9. According to § 75-156(5), "The civil penalty assessed under this section shall not exceed two million dollars per year for each violation except as provided in subsection (4) of this section. The amount of the civil penalty assessed in each case shall be based on the severity of the violation charged. The commission may compromise or mitigate any penalty prior to hearing if all parties agree. In determining the amount of the penalty, the commission shall consider the appropriateness of the penalty in light of the gravity of the violation and the good faith of the violator in attempting to achieve compliance after notification of the violation is given."

10. The Complainant alleges the Respondent violated § 86-459(2) when it failed to timely file with the Commission the required report(s) due January 15, 2008.

11. The required report was not received until March 17, 2008.

12. The Complainant further alleges that due to the Respondent's failure, Respondent is subject to administrative fines and administrative fees pursuant to § 75-156 and § 86-459(5).

WHEREFORE, the complainant prays that this Commission:

- a. enter an order setting this matter for hearing;
- b. after hearing, enter an order finding the Respondent guilty of the alleged violation(s), and levy an administrative penalty and administrative fees against the Respondent as authorized by Neb. Rev. Stat. § 86-459(5), for each violation pursuant to Neb. Rev. Stat. § 75-156, an amount not to exceed \$10,000 dollars per violation per day up to \$2 million dollars per violation per year;
- c. after hearing, enter an order to withhold funding from the Respondent pursuant to Neb. Rev. Stat. §§ 86-442 to 86-460; and
- d. after hearing, enter an order for any and all other relief as deemed appropriate by the Commission and as authorized by law.

Respectfully Submitted,

Angela D. Melton #21755
Nebraska Public Service Commission
300 The Atrium Building
1200 N Street
P.O. Box 94927
Lincoln, Nebraska 68509

State of Nebraska)
) ss
County of Lancaster)

VERIFICATION

Jeffrey L. Pursley, being first duly sworn on oath, deposes and says that he is the duly-appointed Director of the Nebraska Telecommunications Infrastructure and Public Safety Department of the Nebraska Public Service Commission; that he is the Complainant in the foregoing pleading; that he has read the allegations contained therein; and understands them to be true to the best of his knowledge and belief.

Jeffrey L. Pursley

SUBSCRIBED AND SWORN to before me on this _____ day of _____, 2008.

Notary Public

(SEAL)

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above Complaint was sent by First Class United States Mail postage prepaid on _____, 2008 to the following: Laurie Itkin, Cricket Communications, Inc., 10307 Pacific Center Court, San Diego, CA 92121.

Angela D. Melton #21755

N O T I C E

1. Pursuant to Neb. Admin. R. & Regs., title 291, chapter 1, section 005.09, the Respondent is hereby notified that an answer to this complaint shall be filed and shall admit or deny each material allegation of the complaint. The answer shall assert any affirmative defenses which the Respondent may assert. The answer shall be filed with the Commission within twenty (20) days after service of the complaint. Except for good cause shown, failure to answer will be construed as an admission of the allegations in the complaint. Failure to file an answer or to appear at the hearing allows the Commission to (a) immediately enter an order assessing a civil penalty and administrative fees as provided by law; or (b) to proceed with the hearing and receive evidence of the alleged violation and to assess a civil penalty and administrative fees as provided by law.

2. Pursuant to Neb. Rev. Stat. §§ 86-459(5) and 75-156, the Commission may impose an administrative penalty and administrative fees against the Respondent not to exceed ten thousand dollars (\$10,000.00) for each violation per day up to two million dollars (\$2,000,000) per violation per year.